

**New Jersey Department of Environmental Protection (DEP)  
Division of Water Monitoring and Standards (DWM&S)  
Bureau of Environmental Analysis, Restoration and Standards (BEARS)**

**Stakeholder Meeting  
Surface Water Quality Standards (N.J.A.C. 7:9B) - Potential Category One Designation  
Upgrades**

January 17, 2019, 1:30 p.m. to 3:30 p.m.  
401 East State Street, Trenton, NJ 08625  
Public Hearing Room

**Meeting Discussion Highlights**

**PRESENTERS:** Kimberly Cenno (Bureau Chief, BEARS), Bruce Friedman (Director, DWM&S), Biswarup Guha (Research Scientist, BEARS), Gigi Mallepalle (Research Scientist, BEARS)

**FACILITATOR:** Kerry Kirk Pflugh (Director, Office of Local Government Assistance)

**IMPORTANT NOTE:** *This document presents the highlights of the discussion at this meeting; it does not constitute an exact transcription. Any Department responses to stakeholder questions are only preliminary.*

The New Jersey Department of Environmental Protection hosted a stakeholder meeting on January 17, 2019 to present and receive feedback regarding the potential changes to the Surface Water Quality Standards Rules, N.J.A.C. 7:9B-1.15. While the meeting was open to the public, specific stakeholder groups who were invited included representatives from regulated community, environmental organizations, academia, federal regulators, municipalities, municipal and county planning agencies and internal programs from the DEP. A list of attending participants, as well as the PowerPoint presentation given at the meeting, have been posted at the DEP's Stakeholder Involvement website at <https://www.nj.gov/dep/workgroups/past.html>.

The stakeholder meeting consisted of a general overview presentation of Category One designations followed by presentation on three specific topics: anticipated Category One upgrades, potential impacts, and the benefits of Category One protection and the next steps. A question and answer session followed each presentation. The presentation overview and highlights of the discussions are provided below:

**Presentation Overview**

The DEP discussed the antidegradation categories, designated uses and classifications, which are codified at N.J.A.C. 7:9B and are mandated by the federal regulations at Code of Federal Regulations, Chapter 40, Section 131.12. The DEP presented the existing coverage of the Category One waters and noted that 44

percent of the State's surface waters are already either designated as Outstanding National Resource Waters or Category One waters.

The subsequent presentation included discussion on the criteria considered for the Category One designation followed by the anticipated proposal of Category One protection for waters. As presented, a total of approximately 749 river miles are recommended for Category One protection based on the waters being of exceptional ecological significance and/or constituting exceptional fishery resources. Seven-hundred thirty-four (734) river miles are recommended based on exceptional ecological significance and 53 river miles are recommended based on exceptional fishery resource. Approximately 38 of these river miles qualifying both as waters of exceptional ecological significance and exceptional fishery resources. The stream classifications for these proposed Category One upgrades will remain the same. The anticipated Category One upgrades will result in an increase of the Category One protection from 29 percent to 32 percent, if all 749 river miles were to be adopted.

The DEP also presented the potential impacts associated with the Category One designations. New or expanding New Jersey Pollution Discharge Elimination System dischargers to one of the proposed Category One waters may incur increased costs due to additional treatment required to meet the "no measurable change" at the Category One boundary, which may be economically or technologically challenging. The DEP looked at the NJPDES dischargers located on and upstream of the proposed Category One waters and trout reclassification upgrades to identify if any discharger may be affected. There are one major and five minor domestic surface water discharges and one minor industrial discharge. Municipalities, builders and/or contractors may be impacted by the resulting 300-foot riparian zones. The Flood Hazard Area Control Act rules, N.J.A.C. 7:13, and the Water Quality Management Planning rules, N.J.A.C. 7:15, establish and restrict development and/or sewer service, respectively, within the 300-foot riparian zone along any regulated water designated as a Category One water and all upstream tributaries situated within the same HUC-14 watershed of such Category One waters.

#### Highlights of Comments and Questions

- Stakeholders strongly supported the idea that it is better to prevent degradation by protecting waterbodies now—rather than restoring them later.
- Stakeholders were seeking clarification and an expansion of the criteria for qualifying surface waters to Category One upgrades based on "exceptional recreational significance", e.g. using "Wild and Scenic River", "open space", and/or "Highlands" as criteria.
- Stakeholders requested strengthening the protection for the Category One waters with policies in addition to the current 300-foot buffer riparian zone and "no measurable change" requirements.
- Recommendation to revisit the use of impervious surface thresholds to upgrade waters to Category One.
- Recommendation to revisit and expand the species considered as endangered and threatened for Category One upgrades; "species of special concern" should be considered for use as criteria for Category One upgrades.
- Upgrade more waters to Category One status based on recreational significance, water supply significance (e.g. tributaries of Delaware River, Swamp Creek, Black Creek, Pequest River, Stony Brook, and Wallkill River), and/or presence of endangered and threatened species.
- Federally-designated waters that flow into national preserved areas should be protected.

- More waters should be provided maximum protection by designating Outstanding National Resource Waters status.
- Recommendation to establish a baseline to assess for antidegradation.
- What is the on-ground impact? How many proposed Category One waters fall within public or private lands?
- Are there any requirements for municipalities that are affected by new Category One designations?
- Request to share the GIS information for the proposed upgrades and stream specific basis for upgrade.
- Include as part of benefits - protecting additional Category One waters also contribute to measures taken against climate change.
- The DEP should outline what requirements for treatment plants near Category One waters will be.
- Does the DEP have the authority to categorize Highlands similar to the manner Pinelands are protected?

#### Next Steps

Questions and comments provided by the stakeholders are taken under advisement and may be considered as part of subsequent rulemaking.